

**MINUTES
OF THE JOINT MEETING OF THE
EDINA CITY COUNCIL
AND THE EDINA HOUSING AND REDEVELOPMENT AUTHORITY
HELD AT CITY HALL
DECEMBER 18, 2001
8:00 P.M.**

CALL TO ORDER Mayor Maetzold called the regular meeting of the Edina City Council to order at 8:01 p.m. He noted the Council had delayed their meeting because of the Hopkins School District Election.

ROLLCALL Answering rollcall were Members Housh, Hovland, Masica and Mayor Maetzold. Member Kelly entered the meeting at 8:15 P.M.

CONSENT AGENDA ITEMS APPROVED Motion made by Member Masica and seconded by Member Housh approving the Council Consent Agenda as presented.

Rollcall:

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

***MINUTES OF THE REGULAR MEETING OF DECEMBER 4, 2001, SPECIAL MEETING OF SEPTEMBER 19, 2001, AND SPECIAL MEETING OF DECEMBER 4, 2001, APPROVED** Motion made by Member Masica and seconded by Member Housh approving the Minutes of the Regular Meeting of the Edina City Council for December 4, 2001; Special Meeting of September 19, 2001; and Special Meeting of December 4, 2001.

Motion carried on rollcall vote -four ayes.

EMPLOYEE RECOGNITION Mayor Maetzold thanked Engineer Francis Hoffman for his 28 years of service and acknowledged his extraordinary dedication, loyalty and commitment to the City. Mr. Hoffman explained that he felt lucky to have been able to spend his career working in Edina. He thanked the Council for their support over the years.

***HEARING ON VACATION OF PORTION OF SPRUCE ROAD CONTINUED TO JANUARY 15, 2002 AND 60 DAY EXTENSION GRANTED** Motion made by Member Masica and seconded by Member Housh to continue the hearing on the vacation of Spruce Road until January 15, 2002, and to grant a 60 day extension from action and vacation of street.

Motion carried on rollcall vote - four ayes.

RESOLUTION NO. 2001-101, FINAL PLAT APPROVED WITH CONDITIONS FOR OLDE VERNON 3RD Planner Larsen stated the Council had granted Preliminary Plat approval for this 5-lot addition to the Olde Vernon development on October 16, 2001. They had made a condition of the approval, that the lots be made a part of the Olde Vernon Homeowners Association. Mr. Larsen reported that the developer had faxed a signed agreement to this condition to the City was ready to proceed to final plat.

Member Hovland asked if the final plat conformed to the preliminary plat. Mr. Larsen replied that the plat had not been modified.

Member Hovland introduced the following resolution and moved its adoption:

RESOLUTION NO. 2001-101

A RESOLUTION APPROVING

FINAL PLAT FOR OLDE VERNON 3RD ADDITION

BE IT RESOLVED by the City Council of the City of Edina, Minnesota, that that certain plat entitled, "Olde Vernon 3rd", platted by Leo Evans, et al, and presented at the regular meeting of the City Council on December 18, 2001, be and is hereby granted final plat approval.

BE IT FURTHER RESOLVED that the approval of the Final Plat of Olde Vernon 3rd Addition incorporates the plat into the existing homeowner's association.

Passed and adopted this 18th day of December 2001.

Member Masica seconded the motion.

Rollcall:

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

ORDINANCE NO. 850-A22 GRANTED FIRST READING APPROVING PRELIMINARY REZONING AND RESOLUTION 2001-103 APPROVED AMENDING COMPREHENSIVE PLAN - 4015 WEST 65TH STREET (STEVEN SCOTT DOVE COMPANY AND CRAIG COMPANY) Affidavits of Notice were presented, approved and ordered placed on file.

Presentation by Planner

Planner Larsen explained a request has been received from Steven Scott Development Company and The Craig Company to amend the Comprehensive Plan designation from office to High-Density Residential Rezone from Planned Office District, POD-1 to Planned Residence District, PRD-4. The proposal would raze all existing site improvements to allow the construction of a four-story, 100-unit apartment building on the 3.34-acre site. The building would sit over a two-level, 193 space parking garage. There would be an additional 35 surface parking spaces on the north side of the building. the development consists of two building that would be connected by a single story office and amenity space. He noted the requested redevelopment required no variances from the City.

Mr. Larsen said the Planning Commission recommended amending the Comprehensive Plan designation conditioned upon: 1) Final Rezoning, 2) Watershed District Permits; 3) Easement Vacation and Rededication; and 4) Sewer Line Relocation at Developer's Expense.

Member Masica asked for verification that the proposed redevelopment would lessen traffic in the area. Mr. Larsen replied that the site could handle an 80,000 square foot office which would generate approximately 1,100 car trips daily. The 100-unit residential apartments were projected to generate only about 700 trips daily and then they would not be at peak traffic hours given he likely tenants.

Member Housh asked if the Council were to approve the requested redevelopment, but the developer failed to proceed what would happen to the property, specifically the rezoning. Mr. Larsen replied that the zoning would revert to what it was prior to the request.

Mayor Maetzold noted that Commissioner Brown had voted no on the proposal and stated he thought further study should happen before any further redevelopment occurred in this area.

Mr. Larsen said he could not elaborate on Mr. Brown's decision, but noted that the current proposal was viable and did not need any variances to proceed.

Member Kelly entered the meeting at this point. The time was 8:15 p.m.

Presentation by Developer:

Craig Alshouse, Craig Company President, introduced Scott Bader, president of Steven Scott Company. Mr. Alshouse explained that he and Mr. Bader were co-developers of the former Edina Realty building owned by the Rovick brothers.

Mr. Alshouse stated they felt there was a need for high-end rental housing in Edina. They would be marketing to working people from the hospital, empty nesters, and professional people. The apartments will be one bedroom, one bedroom plus den, two bedroom, two bedroom plus den and four penthouses. The developers intent was for a very residential classic design. Each unit will have its own washer and dryer. Every unit will have at least one underground parking staff. Many units will have working fire places. The redeveloped building will cover 43% of the lot versus the current 46% coverage.

Member Hovland asked what exterior and interior building materials were planned. Dennis Sutcliffe, ESG Architects noted the design was preliminary, but was representative of the final result. The exterior will be mostly brick and stone, perhaps synthetic stone precasts. He added the Final Plan's roof scapes will be as shown on the preliminary design.

The Council asked the developers about the possibility of some of the units being made affordable in view the Minnesota Livable Communities Act. They discussed their desire to make sure Edina residents have affordable housing available to them. Mr. Alshouse explained that at this point in the development including affordable housing was just not feasible.

Member Kelly asked what Edina's code was for parking. Mr. Larsen answered that the Code required two parking stalls per unit with at least 1.25 of these stall underground. The proposed development more than meets this standard.

Member Housh asked the potential rents. Mr. Alshouse replied at this time it was thought rent would run between \$1,300 - \$2,300 per month with the four penthouses at a higher rate.

Public Comment

Peter Pustorino, 4005 West 65th Street, stated he was a member of the partnership that owned the building directly to the east of the proposed redevelopment. Mr. Pustorino expressed his concern with how much closer the proposed new building will be built to his office building. He added that in his opinion, this will make it very difficult for him to retain his existing tenants and potentially rent to new tenants due to the loss of view brought about by the new building. Mayor Maetzold asked if Mr. Pustorino thought that landscaping could lessen this impact. Mr. Pustorino said he did not know.

Member Hovland and Mayor Maetzold pointed out that loss of view has not historically been a reason for not allowing a re-development proposal to proceed. Member Hovland asked the City Attorney if any law existed that in his opinion would preclude the approval of the requested re-development. Attorney Gilligan replied that he did not think loss of view constituted legal means to disapprove a development proposal.

Motion of Member Hovland seconded by Member Kelly to close the public hearing.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

Member Hovland introduced the following Ordinance and moved to grant it first reading:

ORDINANCE NO. 850-A22

AN ORDINANCE AMENDING THE ZONING ORDINANCE NO. (850)

BY REZONING PROPERTY TO PRD-4

FROM POD-1

THE CITY COUNCIL OF THE CITY OF EDINA, MINNESOTA, ORDAINS:

Section 1. Subsection 850.06 of Section 850 of the Edina City Code is amended by adding the following thereto:

"The extent of the Planned Residential District, PRD-4 is enlarged by the addition of the following property:

Lots 1 and 2, Block 2, SOUTHDALE OFFICE PARK SECOND ADDITION

The extent of the POD-1 Planned Office District is reduced by removing the property described above."

Section 2. Effective Date: This ordinance shall be in full force and effect upon adoption and publication according to the law.

Member Masica seconded the motion.

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

Member Hovland introduced the following resolution and moved its adoption:

RESOLUTION NO. 2001-103

AMENDING THE COMPREHENSIVE PLAN

FOR THE 4015 West 65TH STREET

BE IT RESOLVED by the City Council of the City of Edina, Minnesota that the Comprehensive Plan of the City be amended by changing the designation from Planned Office District, POD-1, to Planned Resident District, PRD-4 for the property described as:

Lots 1 and 2, Block 2, SOUTHDALE OFFICE PARK SECOND ADDITION.

Adopted this 18th day of December, 2001.

Member Masica seconded the motion.

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

***60-DAY EXTENSION FROM ACTION APPROVED FOR PRELIMINARY PLAT FOR BLAKE HEIGHTS Motion made by Member Masica and seconded by Member Housh approving the 60-day extension from action for the Preliminary Plat for Blake Heights.**

Motion carried on rollcall vote -four ayes.

***BID AWARDED FOR POND SEDIMENT REMOVAL AT BRAEMAR BOULEVARD AND VALLEY VIEW ROAD (IMP. NO. STS-273) Motion made by Member Masica and seconded**

by Member Housh for award of bid for removal of pond sediment in Nine-Mile Creek at Braemar Boulevard and Valley View Road to recommended low bidder, Arnt Construction Company, Inc., at \$14,448.80.

Motion carried on rollcall vote – four ayes.

*BID AWARDED FOR SIX SQUAD CARS FOR POLICE DEPARTMENT Motion made by Member Masica and seconded by Member Housh for award of bid for six (6) full-size police squad cars, Police Interceptor model, Crown Victoria, to Superior Ford under State of Minnesota Cooperative Purchasing Agreement Contract 426133, at \$128,550.00.

Motion carried on rollcall vote – four ayes.

*BID AWARDED FOR ONE UNMARKED SQUAD CAR FOR POLICE DEPARTMENT Motion made by Member Masica and seconded by Member Housh for award of bid for one unmarked squad car for the Police Department to Hinckley Chevrolet under State of Minnesota Cooperative Purchasing Agreement under Contract No. 426228, at \$19,275.00.

Motion carried on rollcall vote – four ayes.

*BID AWARDED FOR CITY PHONE SYSTEM UPGRADE Motion made by Member Masica and seconded by Member Housh for award of bid for hardware and software upgrade to the City phone system to sole bidder, Matrix Communications, at \$15,000.00.

Motion carried on rollcall vote – four ayes

*RESOLUTION NO. 2001-104 PUBLIC HEARING DATE SET FOR JANUARY 15, 2002, FOR VACATION OF PORTION OF CIRCLE WEST Motion made by Member Masica and seconded by Member Housh introducing the following resolution and moving its adoption:

RESOLUTION NO. 2001-104
CALLING FOR PUBLIC HEARING ON VACATION
PUBLIC STREET RIGHT-OF-WAY
PORTION OF CIRCLE WEST

BE IT RESOLVED by the City Council of the City of Edina as follows:

1. It is hereby found and determined that the following described property should be considered for vacation in accordance with the provisions of Minnesota Statutes, Section 160.29 and 462.348, Subd. 7:
2. This Council shall meet at 7:00 P.M. on the 15th day of January 2002, for the purpose of holding a public hearing on whether such vacation shall be made in the interest of the public.
3. The City Clerk is authorized and directed to cause notice of said hearing to be published once a week for two weeks in the Edina Sun-Current, the official newspaper of the City, to post such notice, in at least three public and conspicuous places, as provided in Minnesota Statutes. Such notice shall be in substantially the following form:

Official Publication)
CITY OF EDINA
4801 WEST 50TH STREET
EDINA, MINNESOTA 55424
NOTICE OF PUBLIC HEARING ON
VACATION OF PORTION PUBLIC STREET
RIGHT-OF-WAY (CIRCLE WEST)
IN THE CITY OF EDINA
HENNEPIN COUNTY MINNESOTA

Minutes/Edina City Council/December 18, 2001

NOTICE IS HEREBY GIVEN that the City Council of the City of Edina, Minnesota will meet on January 15, 2002, at 7:00 P.M. in the Council Chambers at 4801 West 50th Street for a public hearing for the proposed vacation of the following described portion of Circle West street right-of-way and alley right-of-way:

Circle West Vacation

That part of Circle West as dedicated on the plat of Hilldale according to the recorded plat thereof, Hennepin County, Minnesota, lying Easterly of the following described line:

Beginning at the Westerly corner of Lot 1, Block 4, Hilldale, thence Northeasterly along a tangential curve, said tangent has an assumed bearing of North 42 degrees 35 minutes 06 seconds West, concave to the East having a radius of 160.00 feet, a distance of 134.06 feet and a central angle of 48 degrees 00 minutes 23 seconds to a point on the Northerly line of Circle West as platted in Hilldale; thence Southeasterly a distance of 36.05 feet more or less to a point along the Northerly line of Circle West according to the Recorded Plat of Hilldale, said point being the Southwest corner of Lot 6, Block 1, Meadowbrook Oaks according to the recorded plat thereof, situated in Hennepin County, Minnesota; thence Southerly to the point of beginning and there terminating.

All persons who desire to be heard with respect to the question of whether or not the above proposed street right of way and utility and drainage vacation is in the public interest and should be made shall be heard at said time and place. The Council shall consider the extent to which such proposed street vacation affects existing easements within the area of the proposed vacation and the extent to which the vacation affects the authority of any person, corporation, or municipality owning or controlling electric, telephone or cable television poles and lines, gas and sewer lines, or water pipes, mains, and hydrants on or under the area of the proposed vacation, to continue maintaining the same or to enter upon such easement area or portion thereof vacated to maintain, repair, replace, remove, or otherwise attend thereto, for the purpose of specifying, in any such vacation resolution, the extent to which any or all of such easement, and such authority to maintain, and to enter upon the area of the proposed vacation, shall continue.

BY ORDER OF THE EDINA CITY COUNCIL

Debra A. Mangen, City Clerk

Dated: December 18, 2001

Motion carried on rollcall vote – four ayes.

FEASIBILITY REPORT ON WILLSON ROAD SIDEWALK (IMP S-049) RECEIVED Assistant Public Works Director Houle explained the Council initiated the sidewalk project along Willson Road and Normandale Road. The project is feasible from an engineering viewpoint. Identifying funding sources for this sidewalk is difficult due to the fact that this route is not on our Municipal State Aid System, is outside of any designated school walking zone and the majority of adjacent properties are either trunk highway or private golf course. The feasibility study includes two funding options for the east side:

- Option A: City of Edina (70%)
 - Office Building at 5200 Willson Road (15%)
 - Perkins Restaurant at 4917 Eden Avenue (15%)
- Option B: City of Edina (100%)

Mr. Houle noted he has been contacted by persons requesting a sidewalk to Normandale Court to Eden Avenue. However the present project is funded will set precedent for the Normandale project. Mr. Houle commented he is requesting direction from the Council to properly notify property owners of an impending assessment.

Council comments received included: the primary need for the sidewalk is for 4-5 times a year when the High School has football games on Friday night; the issue is for safety; traffic is heavy on the road both of high school athletes and walkers; is this part of the Capital Improvement Plan; is the lifetime the same for bituminous and concrete; Is it a requirement that assessments are only levied on the side of the road the sidewalk is on; are there places where a combination of office/commercial where no assessments were levied; was there no interest from the school district in the project; could the school district be assessed; could a public hearing be called for the project; if safety is an issue, the problem is created by the school district; the only way to be safe is to separate vehicles from foot traffic; funding would be better spent with a walking path around Braemar, etc; and can not lend support without school district involvement; at the scheduled joint meeting with the school district the sidewalk could be an agenda item.

Mr. Houle responded the lifetime of bituminous is 10-15 years and for concrete 15-20 years; area assessments have been done in school areas and are based on school walking zones; most combination locations are State Aid routes; the school's finance committee was approached about their interest in the project but the route was not within their walking zones and felt no obligation to contribute to the project cost;

Attorney Gilligan added the test would be whether the school district would benefit with the project. Manager Hughes added if the school district consented to the sidewalk, it would be lawful to assess the property over a period of time and thereby finance their share.

No formal action was taken.

***2002 PUBLIC HEALTH NURSING CONTRACT APPROVED** Motion made by Member Masica and seconded by Member Housh approving the 2002 Nursing Contract to Bloomington Division of Public Health for \$191,871.00.

Motion carried on rollcall vote – four ayes.

***2002-2003 YOUTH RISK BEHAVIOR ENDOWMENT CONTRACT APPROVED** Motion made by Member 1 and seconded by Member 2 approving the contract to the Bloomington Health Division for Youth Risk Behavior services for calendar years 2002-2003, at \$45,377.00.

Motion carried on rollcall vote – four ayes.

RESOLUTION NO. 2001-99, PUBLIC HEARING HELD ON REDEVELOPMENT PLAN
Affidavits of Notice were presented, approved and ordered placed on file.

Manager Hughes explained a series of actions are required by the City Council and the HRA in order to complete the sale of the Public Project Revenue Bonds Series 2002. As discussed in previous meetings, the bonds will be used to:

- Remodel and construct an addition to the library next door to City Hall in order to use it as a new police station; and

Minutes/Edina City Council/December 18, 2001

- Construct a new City hall located behind the existing building or remodel the existing facility for use by the departments that will remain in the building; and

In order to complete the sale of bonds, the following steps must be taken:

1. Conduct a public hearing on the establishment of a Public Facilities Redevelopment Plan and Redevelopment Project.
2. Award the sale of the Public Project Revenue Bonds Series 2002
3. Authorize execution of a ground lease and lease agreement for the public facilities project.

Mayor Maetzold opened the public hearing.

Mark Rupp, Ehlers and Association, 3060 Center Point Drive, Roseville, MN explained the City received three bids for the proposed bond sale. Mr. Rupp stated that since the proposed bonds were not General Obligation bonds they typically received a rate $\frac{1}{2}$ step below the G.O. Bond rating. The low bid of 5.1725% True Interest was received from RBC Dain Rauscher, Inc. The bonds have a projected closing date of January 15, 2002.

Mr. Hughes explained the interest rate would cause future years levy to need to be increased by \$25,000 each year since the debt service will actually be \$1,025,000 annually for the nineteen-year term of the bond.

Member Housh asked if the difference between building a new facility versus a remodel would be \$1,500,000.00. Manager Hughes answered yes this would be on a gross cost basis.

Mayor Maetzold asked what the process would be. Manager Hughes said the finance portion is the beginning for the Police Department with bids being solicited for award at the February 19, 2002, meeting. Having the financing in place is extremely important. He added that refined cost estimates for a new City Hall would be presented to the Council at a work session.

David Kroos, BKV Group, estimated they would need between one and one-half to two months to do a general layout and image sketches of a proposed building.

Manager Hughes commented this could happen somewhat simultaneously when the Police Station bids are being awarded.

Member Housh inquired whether bidding both projects at the same time would allow better economy's of scale. Mr. Kroos said under normal circumstances that would be the case. He added currently a good bidding window exists for the Police Station. If it were put on hold to wait for the City Hall project to formulate, that window would be lost.

Mayor Maetzold said conversations he has had with residents lately express the wish that a new building would "fit-in" with the neighborhood.

Member Housh questioned the useful life of a renovated structure versus a new structure. He assumed if the renovation were done appropriately, the useful life would be substantial. He questioned whether the point was significant. Manager Hughes explained that no matter how good a job is done with the renovation, what remains is a 50 year old infrastructure.

Mr. Kroos, concurred with Mr. Hughes that even the renovations completed in 1980 and 1988 are showing signs of deterioration. There would be significant on-going maintenance on the current building.

Mr. Housh asked if long-term operating expenses in a new structure would be much less, and asked what these costs would be. Mr. Hughes said however City Hall would be renovated, energy costs would be higher than with a new building. Mr. Housh asked if hard figures could come forward later in the process. Mr. Hughes said staff attempted to located a industry standard that compares energy costs with a renovated building versus a new building. They were unable to do so.

Member Hovland that the Council as a whole has the same concerns as Mr. Housh and if the process continues, they will have all the information necessary to make an informed decision when the time comes.

Mayor Maetzold opened the public hearing for public comment.

No public comments were received.

Member Kelly made a motion closing the public hearing, seconded by Member Housh.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

Member Kelly introduced the following resolution and moved its adoption:

RESOLUTION NO. 2001-99

RESOLUTION APPROVING PUBLIC FACILITIES

REDEVELOPMENT PLAN AND REDEVELOPMENT PROJECT

BE IT RESOLVED by the City Council of the City of Edina, Minnesota as follows:

1. The Commissioners of the Housing and Redevelopment Authority in and for the City of Edina, Minnesota (the "HRA") have approved the Public Facilities Redevelopment Plan (the "Redevelopment Plan") and the Public Facilities Redevelopment Project (the "Redevelopment Project") to be undertaken pursuant thereto in order to provide the City an improved City Hall and to renovate the Hennepin County Library to be acquired by the City for use as a public safety facility by the City.

2. This Council on December 18, 2001, held a public hearing on the Redevelopment Plan and Redevelopment Project after notice of the public hearing was published in the official newspaper of the City not less than ten (10) days prior to the date of the hearing. At such public hearing all persons desiring to be heard with respect to the Redevelopment Plan and Redevelopment Project were given an opportunity to express their views with respect thereto.

3. The land in the area subject to the Redevelopment Plan would not be redeveloped with improved public facilities without the financial assistance of the HRA, and the Redevelopment Plan will provide improved public facilities which are needed to serve the Edina community, and the Redevelopment Plan and Redevelopment Project conform to the general plan for the development of the City of Edina as a whole.

Passed by the Council this 18th day of December, 2001.

Member Hovland seconded the motion.

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

RESOLUTION NO. 2001-98 APPROVING THE EXECUTION OF A GROUND LEASE/LEASE AGREEMENT Following a brief Council discussion, Member Kelly introducing the following resolution and moved its adoption:

RESOLUTION NO. 2001-98

RESOLUTION AUTHORIZING THE EXECUTION OF A GROUND LEASE AND A LEASE AGREEMENT PROVIDING FOR THE RENOVATION AND REMODELING OF A CITY HALL AND A PUBLIC SAFETY FACILITY AND THE LEASE THEREOF BY THE CITY, AND APPROVING THE FORM OF A RESOLUTION AND AN OFFICIAL STATEMENT

WHEREAS, the City of Edina (the "City") desires to provide adequate facilities for maintenance and public safety; and,

WHEREAS, pursuant to Minnesota Statutes, Sections 465.71 and 471.64, the City is authorized to enter into leases of real property, with an option to purchase, provided that the City retains the right to cancel said lease-purchase contract at the end of any fiscal year during its term; and,

WHEREAS, pursuant to said statutory authority, the City proposes to enter into a Lease Agreement, dated as of January 1, 2002 (the "Lease"), with the City of Edina Housing and Redevelopment Authority (the "Authority"), as lessor, and the City, as lessee, pursuant to which the Authority will acquire, renovate, remodel and furnish a City Hall and a Public Safety Facility (the "Facilities"), and the City will lease the Facilities from the Authority; and,

WHEREAS, the Authority (a) authorized the sale of its \$12,410,000.00 Public Project Revenue Bonds, Series 2002 (City of Edina Annual Appropriation Lease Obligations) (the "Bonds"), to finance the cost of acquiring, remodeling, renovating and furnishing the Facilities pursuant to action of the Board of Commissioners of the Authority on November 20, 2001 and (b) proposes to adopt a final resolution awarding the sale of the Bonds on December 18, 2001 (the "Bond Resolution");

WHEREAS, a form of the Lease and the Bond Resolution have been submitted to and reviewed by this Council, along with the form of a proposed Ground Lease, to be dated as of January 1, 2002 (the "Ground Lease"), between the City, as lessor, and the Authority, as lessee, pursuant to which the City will ground lease to the Authority the real estate upon which the Facilities are located (as permitted by Minnesota Statutes, Section 465.035).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Edina that the City hereby approves the form of the Lease and Ground Lease and the Mayor and City Manager are authorized and directed to execute, attest and deliver the Lease and Ground Lease on behalf of the City. All of the provisions of the Lease and Ground Lease, when executed and delivered as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Lease and Ground Lease shall be substantially in the form submitted to this Council with such necessary and appropriate variations, omissions and insertions as permitted or required, or as the Mayor, in his discretion, shall determine, and the execution thereof by the Mayor shall be conclusive evidence of such determination.

BE IT FURTHER RESOLVED that the City Council hereby approves the form of the Official Statement, relating to the Bonds (the "Official Statement"), a draft of which has been submitted to and received by this Council, and hereby ratifies and confirms its use and distribution to potential purchasers of the Bonds.

BE IT FURTHER RESOLVED that the City hereby approves the terms of the Bond Resolution and the sale of the Bonds pursuant thereto, and approves the terms of the Bonds as set forth in said Bond Resolution and the Indenture (as defined in the Bond Resolution).

BE IT FURTHER RESOLVED AS FOLLOWS:

Continuing Disclosure:

(a) **Purpose and Beneficiaries.** To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit the Purchaser and other participating underwriters in the primary offering of the Bonds to comply with amendments to Rule 15c2-12 promulgated by the SEC under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12), relating to continuing disclosure (as in effect and interpreted from time to time, the Rule), which will enhance the marketability of the Bonds, the City hereby makes the following covenants and agreements for the benefit of the Owners (as hereinafter defined) from time to time of the Outstanding Bonds. The City is the only obligated person in respect of the Bonds within the meaning of the Rule for purposes of identifying the entities in respect of which continuing disclosure must be made. The City has complied in all material respects with any undertaking previously entered into by it under the Rule. If the City fails to comply with any provisions of this section, any person aggrieved thereby, including the Owners of any Outstanding Bonds, may take whatever action at law or in equity may appear necessary or appropriate to enforce performance and observance of any agreement or covenant contained in this section, including an action for a writ of mandamus or specific performance. Direct, indirect, consequential and punitive damages shall not be recoverable for any default hereunder to the extent permitted by law. Notwithstanding anything to the contrary contained herein, in no event shall a default under this section constitute a default under the Bonds or under any other provision of this resolution. As used in this section, Owner or Bondowner means, in respect of a Bond, the registered owner or owners thereof appearing in the bond register maintained by the Registrar or any Beneficial Owner (as hereinafter defined) thereof, if such Beneficial Owner provides to the Registrar evidence of such beneficial ownership in form and substance reasonably satisfactory to the Registrar. As used herein, Beneficial Owner means, in respect of a Bond, any person or entity which (i) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, such Bond (including persons or entities holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of the Bond for federal income tax purposes.

(b) **Information To Be Disclosed.** The City will provide, in the manner set forth in subsection (c) hereof, either directly or indirectly through an agent designated by the City, the following information at the following times:

(1) on or before 365 days after the end of each fiscal year of the City, commencing with the fiscal year ending December 31, 2001, the following financial information and operating data in respect of the City (the Disclosure Information):

(A) The audited financial statements of the City for such fiscal year, containing balance sheets as of the end of such fiscal year and a statement of operations, changes in fund balances and cash flows for the fiscal year then ended, showing in comparative form such figures for the preceding fiscal year of the City, prepared in accordance with generally accepted accounting principles promulgated by the Financial Accounting Standards Board as modified in accordance with the governmental accounting standards promulgated by the Governmental Accounting Standards Board or as otherwise provided under Minnesota law, as in effect from time to time, or, if and to the extent such financial statements have not been prepared in accordance with such generally accepted accounting principles for reasons beyond the reasonable control of the City, noting the discrepancies therefrom and the effect thereof, and certified as to accuracy and completeness in all material respects by the fiscal officer of the City; and

(B) To the extent not included in the financial statements referred to in paragraph (A) hereof, the information for such fiscal year or for the period most recently

available of the type contained in the Official Statement under headings: Current Property Valuations, Larger Taxpayers, Direct Debt, Overlapping Debt, Debt Rations, Tax Levies and Collections, Net Tax Capacity Rates, Population Trend and Employment/Unemployment.

Notwithstanding the foregoing paragraph, if the audited financial statements are not available by the date specified, the City shall provide on or before such date unaudited financial statements in the format required for the audited financial statements as part of the Disclosure Information and, within 10 days after the receipt thereof, the City shall provide the audited financial statements. Any or all of the Disclosure Information may be incorporated by reference, if it is updated as required hereby, from other documents, including official statements, which have been submitted to each of the repositories hereinafter referred to under subsection (c) or the SEC. If the document incorporated by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The City shall clearly identify in the Disclosure Information each document so incorporated by reference. If any part of the Disclosure Information can no longer be generated because the operations of the City have materially changed or been discontinued, such Disclosure Information need no longer be provided if the City includes in the Disclosure Information a statement to such effect; provided, however, if such operations have been replaced by other City operations in respect of which data is not included in the Disclosure Information and the City determines that certain specified data regarding such replacement operations would be a Material Fact (as defined in paragraph (2) hereof), then, from and after such determination, the Disclosure Information shall include such additional specified data regarding the replacement operations. If the Disclosure Information is changed or this section is amended as permitted by this paragraph (b)(1) or subsection (d), then the City shall include in the next Disclosure Information to be delivered hereunder, to the extent necessary, an explanation of the reasons for the amendment and the effect of any change in the type of financial information or operating data provided.

(2) In a timely manner, notice of the occurrence of any of the following events which is a Material Fact (as hereinafter defined):

- (A) Principal and interest payment delinquencies;
- (B) Non-payment related defaults;
- (C) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (D) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (E) Substitution of credit or liquidity providers, or their failure to perform;
- (F) Adverse tax opinions or events affecting the tax-exempt status of the security;
- (G) Modifications to rights of security holders;
- (H) Bond calls;
- (I) Defeasances;
- (J) Release, substitution, or sale of property securing repayment of the securities;
and
- (K) Rating changes.

As used herein, a Material Fact is a fact as to which a substantial likelihood exists that a reasonably prudent investor would attach importance thereto in deciding to buy, hold or sell a Bond or, if not disclosed, would significantly alter the total information otherwise available to an investor from the Official Statement, information disclosed hereunder or information generally available to the public. Notwithstanding the foregoing sentence, a Material Fact is also an event that would be deemed material for purposes of the purchase, holding or sale of a

Bond within the meaning of applicable federal securities laws, as interpreted at the time of discovery of the occurrence of the event.

- (3) In a timely manner, notice of the occurrence of any of the following events or conditions:
 - (A) the failure of the City to provide the Disclosure Information required under paragraph (b)(1) at the time specified thereunder;
 - (B) the amendment or supplementing of this section pursuant to subsection (d), together with a copy of such amendment or supplement and any explanation provided by the City under subsection (d)(2);
 - (C) the termination of the obligations of the City under this section pursuant to subsection (d);
 - (D) any change in the accounting principles pursuant to which the financial statements constituting a portion of the Disclosure Information are prepared; and
 - (E) any change in the fiscal year of the City.

(c) Manner of Disclosure. The City agrees to make available the information described in subsection (b) to the following entities by telecopy, overnight delivery, mail or other means, as appropriate:

- (1) the information described in paragraph (1) of subsection (b), to each then nationally recognized municipal securities information repository under the Rule and to any state information depository then designated or operated by the State of Minnesota as contemplated by the Rule (the State Depository), if any;
- (2) the information described in paragraphs (2) and (3) of subsection (b), to the Municipal Securities Rulemaking Board and to the State Depository, if any; and
- (3) the information described in subsection (b), to any rating agency then maintaining a rating of the Bonds at the request of the City and, at the expense of such Bondowner, to any Bondowner who requests in writing such information, at the time of transmission under paragraphs (1) or (2) of this subsection (c), as the case may be, or, if such information is transmitted with a subsequent time of release, at the time such information is to be released.

(d) Term; Amendments; Interpretation.

- (1) The covenants of the City in this section shall remain in effect so long as any Bonds are Outstanding. Notwithstanding the preceding sentence, however, the obligations of the City under this section shall terminate and be without further effect as of any date on which the City delivers to the Registrar an opinion of Bond Counsel to the effect that, because of legislative action or final judicial or administrative actions or proceedings, the failure of the City to comply with the requirements of this section will not cause participating underwriters in the primary offering of the Bonds to be in violation of the Rule or other applicable requirements of the Securities Exchange Act of 1934, as amended, or any statutes or laws successory thereto or amendatory thereof.
- (2) This section (and the form and requirements of the Disclosure Information) may be amended or supplemented by the City from time to time, without notice to (except as provided in paragraph (c)(3) hereof) or the consent of the Owners of any Bonds, by a resolution of this Council filed in the office of the recording officer of the City accompanied by an opinion of Bond Counsel, who may rely on certificates of the City and others and the opinion may be subject to customary qualifications, to the effect that: (i) such amendment or supplement (a) is made in connection with a change in circumstances that arises from a change in law or regulation or a change in the identity, nature or status of the City or the type of operations conducted by the City,

or (b) is required by, or better complies with, the provisions of paragraph (b)(5) of the Rule; (ii) this section as so amended or supplemented would have complied with the requirements of paragraph (b)(5) of the Rule at the time of the primary offering of the Bonds, giving effect to any change in circumstances applicable under clause (i)(a) and assuming that the Rule as in effect and interpreted at the time of the amendment or supplement was in effect at the time of the primary offering; and (iii) such amendment or supplement does not materially impair the interests of the Bondowners under the Rule.

If the Disclosure Information is so amended, the City agrees to provide, contemporaneously with the effectiveness of such amendment, an explanation of the reasons for the amendment and the effect, if any, of the change in the type of financial information or operating data being provided hereunder.

- (3) This section is entered into to comply with the continuing disclosure provisions of the Rule and should be construed so as to satisfy the requirements of paragraph (b)(5) of the Rule.

BE IT FINALLY RESOLVED that this resolution shall be in full force and effect from and after its passage and that a certified copy hereof be provided to the Authority.

Passed and adopted this 18th day of December, 2001.

Member Hovland seconded the motion.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

ORDINANCE NO. 2001-10, INCLUDING PUBLIC HEARING ON LIQUOR FEES, AMENDING CODE SECTION 185, INCREASING CERTAIN FEES, APPROVED Affidavits of Notice were presented, approved and ordered placed on file.

Mr. Hughes noted that consideration of the 2002 fees and charges included a public hearing on the proposed liquor license fees. He added that the City had eliminated the manager's licenses during 2001 and a portion of the proposed increase in the on-sale intoxicating license fee was due to this elimination, plus a CPI adjustment.

Member Hovland indicated that he was uncomfortable eliminating a fee and then raising another fee to recover the loss of the first one. Member Kelly said he felt that some kind of CPI increase was warranted, but he agreed with Mr. Hovland. Mayor Maetzold indicated his agreement with both colleagues. Member Masica also echoed this opinion.

Public Comment

Wayne Kostroski, 4815 Maple Road, stated he also owned Tejas Restaurant at 50th and France. Mr. Kostroski said he praised the Council and staff for their work with liquor licensees and enforcement. However, he requested the Council's help in making the state bring the cost of "club" licenses more in line with on-sale intoxicating licenses. Mr. Kostroski said he felt it unfair for clubs to pay such a small fee when they can serve the same liquors as on-sale licensees.

No further public comment was offered.

Motion of Member Hovland, seconded by Member Housh closing the public hearing.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

Member Kelly made a motion adopting Ordinance No. 2001-10 setting certain fees and charges for 2002 as follows:

ORDINANCE NO. 2001 - 10

THE CITY COUNCIL OF THE CITY OF EDINA ORDAINS:

Section 1. The following described fees of Schedule A to Code Section 185 are amended to read as follows:

SECTION	SUBSEC.	PURPOSE OF FEE/CHARGE	AMOUNT	FEE NO.
300	300.02 Subd 2	Redemption of Impounded Animals	\$19.00	15
300	300.02 Subd. 2	Disposal of animal	\$27.00	19
450	450.27 Subd 4	Public or semi-public swimming pool license	\$415.00 per annum for each pool enclosed part or all of the year \$220.00 per annum for each outdoor bath or pool \$120.00 per year for each bath or pool	81 82 83
605	605.07	Special Hazard Permit	<u>Class I:</u> General hazard and fire safety inspections requiring a special hazard permit: \$100.00 <u>Class II:</u> Special hazard inspection involving various hazardous materials and/or processes in occupancies of buildings less than 3000 sq. ft. in area: \$150.00 <u>Class III:</u> Special hazard inspection primarily directed at, but not limited to, buildings or occupancies 3000 sq. ft. or larger where any of the following are present: Multiple hazards, Storage handling, and/or processes involving dangerous or toxic materials, substances and/or processes; or Occupancies in which valuation or high valuation presents unique circumstances: \$250.00	97
625	625.03	Sprinkler Permit Fees	Per Number of Heads: 201 plus \$350.00 for first 200 + \$1.25 each addn'l. head	110
716	716.02	Recycling Service	Single Family - \$5.19/quarter Double Bungalow - \$5.19/quarter Apts/Condos (2-8 units) \$3.87/quarter	131 132 133
721	721.03	Food Establishment	High Risk Food - \$490.00 Medium Risk Food - \$315.00 Low Risk Food - \$85.00	135 136 137

Minutes/Edina City Council/December 18, 2001

721	721.03	Food Establishment	Base Fee - \$105.00 Food Vehicle - \$125.00 Additional Facility - \$105.00 Push Cart - \$185.00 Itinerant Food - \$105.00	138 141 142 143 144
721	721-03 Subd. 1	Minimum Restaurant Plan Review Fee	\$75.00	148
735	735.03	Supervised Group Home Boarding/Lodging House license	\$35.00 \$85.00	154 155
820	820.01	Filing of application for vacation of street, alley or easement	\$330.00	170
900	900.07 Subd 1	Liquor License Fees (per year) -On-Sale Intoxicating -Off-Sale 3.2 Malt Liquor -On-Sale 3.2 Malt Liquor -Temporary On- Sale 3.2% Malt Liquor	\$8,240.00 \$515.00 \$515.00 \$63.00	206 207 210 216
1020	1020	False Automatic Alarm	\$110.00	220
1040	1040.08	Loudspeaker Permit	\$17.00	225
1100	1100.03 Subd 2	<u>Sewer Service:</u> - Single Family, Town Houses, Two-Family Dwellings, Apartment building with four or less dwelling units - Apartment building with more than four dwelling units: - Commercial and industrial buildings, including schools and churches	-To and including 1600 cubic feet \$30.24/quarter -From 1601 cubic feet & over \$1.89/100 cubic feet \$1.89/100 cubic feet of water used during the quarter whichever is greater \$1.89/100 per cubic feet of water used during the quarter, whichever is greater	235 236 237 238

Minutes/Edina City Council/December 18, 2001

1100	1100.03 Subd 2	Water service:	1. \$0.70/ 100 cubic feet for areas of City, except areas described below.	242
			2. Excessive use charge \$0.23/100 cubic ft.	244
		Meter charge:	Up to ¾ inch meter - \$8.57 qtr	245
			1 inch meter - \$11.65 qtr	
			1 ¼ inch meter - \$13.30 qtr	
			1 ½ inch meter - \$14.96 qtr	
			2 inch meter - \$24.10 qtr	
			3 inch meter - \$91.48 qtr	
			4 inch meter - \$116.44 qtr	
1105	1105.01 Subd 1	Service Availability Charge (SAC)	\$1,200.00 per SAC unit x number of SAC units computed as pursuant to Subsection 1105.01, Subd. 1 of this Code	250
1110	1110.03	Storm Water Drainage Charge	\$6.00 per quarter pursuant to formula in Subs. 1110.03	255
1230	1230.07	Sidewalk café permit	\$579.00	261
1300	1300.02 Subd 1	Refuse or Recycling Hauler's License	\$275.00 per year for first vehicle \$85.00 per year for add'l vehicle	270
1325	1325.03	Tobacco Sale License	\$300.00 per location	280

Section 2. The effective date of this Ordinance shall be January 1, 2002.

Attest _____
City Clerk

Mayor

Member Hovland seconded the motion.

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

RESOLUTION NO. 2001-100 - PUBLIC HEARING ADOPTING THE 2002 ANNUAL OPERATING BUDGET Member Housh asked if the City's insurance had been reviewed before final budget preparation. Mr. Hughes answered that the budget had been increased to cover potential increases. He pointed out that the City had checked with their agent and that its increases were single digit so the budget should be adequate. Further an insurance reserve had been established and built over the past few years.

Mayor Maetzold called for public comment. No one appeared.

Member Housh made a motion closing the public hearing. Member Masica seconded the motion.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

Member Masica introduced the following resolution and moved its adoption for the City's 2002 Operating Budget:

**RESOLUTION NO. 2001-100
RESOLUTION ADOPTING THE BUDGET FOR
THE CITY OF EDINA FOR THE YEAR 2002, AND
ESTABLISHING TAX LEVY FOR YEAR 2002,
PAYABLE IN 2002**

THE CITY COUNCIL OF THE CITY OF EDINA MINNESOTA DOES RESOLVE AS FOLLOWS:

Section 1: The Budget for the City of Edina for the calendar year 2002 is hereby adopted as after this set forth, and funds are hereby appropriated therefore:

GENERAL FUND

GENERAL GOVERNMENT

Mayor and Council	\$	70,468	
Administration		915,569	
Planning		348,434	
Finance		512,723	
Election		110,264	
Assessing		698,641	
Legal and Court Services		366,000	
		TOTAL GENERAL GOVERNMENT	\$ 3,022,099

PUBLIC WORKS

Administration	\$	142,019	
Engineering		666,096	
Streets		4,064,007	
		TOTAL PUBLIC WORKS	\$ 4,872,122

PROTECTION OF PERSONS AND PROPERTY

Police	\$	5,790,711	
Civilian Defense		42,927	
Animal control		79,651	
Fire		3,437,420	
Public Health		481,275	
Inspections		609,844	
		TOTAL PROTECTION OF PERSONS/PROPERTY	\$ 10,441,828

PARK DEPARTMENT

Administration	\$	600,374	
Recreation		268,164	
Maintenance		1,935,960	
		TOTAL PARK DEPARTMENT	\$ 2,804,498

NON-DEPARTMENTAL EXPENDITURES

Contingencies	\$	80,000	
Special Assessments/City		25,000	
Property			
Capital Plan Appropriation		50,000	
Fire Debt Service		84,000	
Employee Programs		123,354	
Commissions/Special Projects		200,971	
		TOTAL NON-DEPARTMENTAL EXPENDITURES	\$ 563,325

TOTAL GENERAL FUND	\$ 21,703,872
DEBT SERVICE OF THE HRA PUBLIC PROJECT	\$ 1,000,000
BONDS	

Section 2. Estimated receipts other than the General Tax Levy are proposed as hereinafter set forth:

GENERAL FUND	
Other Taxes	\$ (145,000)
Licenses and Permits	1,839,500
Municipal Court Funds	810,000
Department Service Charges	1,730,916
Other	170,100
Transfer from Liquor fund	525,000
Income on Investments	113,200
Aid-Other Agencies	369,900
Police Aid	300,000
TOTAL ESTIMATED RECEIPTS	\$ 5,713,616

Section 3. That there is proposed to be levied upon all taxable real and personal property in the City of Edina a tax rate sufficient to produce the amounts hereinafter set forth:

GENERAL FUND	\$ 15,990,256
LEVY FOR PAYMENT OF HRA PUBLIC PROJECT	\$ 1,000,000
BONDS	

Passed and adopted by the City Council on December 18, 2001.

Member Housh seconded the motion.

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

2002-2006 CAPITAL IMPROVEMENT PLAN ADOPTED Mr. Hughes noted that adoption of the 2002-2006 Capital Improvement Plan funded only the 2002 portion of the plan. He pointed out the 2002 high lights: Edina aquatic center, fire protection Braemar Arena, upgrade to Golf Dome restrooms, Vernon Liquor Store Remodel, and Senior Center furnishings. Following a brief Council discussion, **Member Hovland made a motion to adopt the 2002-2006 Capital Improvement Plan.** Member Kelly seconded the motion.

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

***CONFIRMATION OF CLAIMS PAID** Member Masica made a motion and Member Housh seconded the motion approving payment of the following claims as shown in detail on the Check Register dated December 6, 2001, and consisting of 35 pages: General Fund \$991,962.64; CDBG Fund \$3,280.00; Communications Fund \$3,604.01; Working Capital Fund \$75,491.53; Construction Fund \$13,965.63; Art Center Fund \$15,810.84; Golf Dome Fund \$5,392.73; Aquatic Center Fund \$12,698.00; Golf Course Fund \$4,252.04; Ice Arena Fund \$4,998.25; Edinborough/Centennial Lakes Fund \$11,158.49; Liquor Fund \$158,519.52; Utility Fund \$5,050.41; Storm Sewer Fund \$1,771.66; TOTAL \$1,307,955.75; and for approval of payment of claims dated December 13, 2001, and consisting of 42 pages consisting of: General Fund

Minutes/Edina City Council/December 18, 2001

\$207,557.66; CDBG Fund \$6,924.11; Communications Fund \$8,831.79; Working Capital Fund \$86,019.02; Construction Fund \$440,784.87; Art Center Fund \$7,248.24; Golf Dome Fund (\$55.30); Golf Course Fund \$3,801.92; Ice Arena Fund \$4,949.80; Edinborough/ Centennial Lakes Fund \$2,266.53; Liquor Fund \$157,004.16; Utility Fund \$168,441.45; Storm Sewer Fund \$5,240.33; Recycling Fund \$29,618.50; Payroll Fund \$440,000.00; TOTAL: \$1,568,633.08.

Motion carried on rollcall vote - four ayes.

There being no further business on the Council Agenda, Mayor Maetzold declared the meeting adjourned at 10:10 P.M.

City Clerk